

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION

MARY CATHERINE FURLOUGH,	\$
INDIVIDUALLY AND AS EXECUTRIX	\$
OF THE ESTATE OF CAROLYN	\$
HAMMOND, DECEASED, AND	\$
RICHARD W. SPAULDING, JR.	\$
Plaintiffs	\$

VS.

JAMES HOLMES, INDIVIDUALLY §  
AND D/B/A THE LAW OFFICE OF §  
JAMES HOLMES, P.C., JOHN BURT, §  
INDIVIDUALLY AND D/B/A THE §  
LAW OFFICE OF JOHN BURT, PLLC, §  
SCHNEIDER NATIONAL CARRIERS, §  
INC., AND SHAYNE THOMAS FELTY §  
Defendants. §

C.A. No. \_\_\_\_\_

**DEFENDANTS SCHNEIDER NATIONAL CARRIERS, INC. AND SHAYNE  
THOMAS FELTY 'S NOTICE AND PETITION FOR REMOVAL**

TO THE HONORABLE COURT:

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendants, Schneider National Carriers, Inc. and Shayne Thomas Felty (“Defendants”), in Cause No. A-197,145 pending in the 58th District Court of Jefferson County, Texas, file this Notice and Petition for Removal from that Court to the United States District Court for the Eastern District of Texas, Beaumont Division on the basis of diversity of citizenship and amount in controversy and respectfully show:

## I. FACTUAL BACKGROUND

1.1. On or about June 1, 2015, Plaintiffs filed their First Amended Petition for Declaratory Judgment and Plaintiffs' Original Petition in the matter

styled *Mary Catherine Furlough, Individually and as Executrix of the Estate of Carolyn Hammond, Deceased, and Richard W. Spaulding, Jr. v. James Holmes, Individually and d/b/a The Law Office of James Holmes, P.C., John Burt, Individually and d/b/a The Law Office of John Burt, PLLC, Schneider National Carriers, Inc., and Shayne Thomas Felty*, Cause No. A-197,145, in the 58th District Court of Jefferson County, Texas, in which Plaintiffs seek recovery against Schneider National Carriers, Inc. and Shayne Thomas Felty for negligence and gross negligence, pursuant to the wrongful death and survivor statutes. Plaintiffs filed suit against Schneider National Carriers, Inc., and Shayne Thomas Felty.

## **II.**

### **BASIS FOR REMOVAL**

2.1. Removal is proper and based upon diversity of citizenship under 28 U.S.C. §§1332(a)(1), 1441(a), and 1446.

2.2. Plaintiffs were, and are, at the time the lawsuit was filed, residents of the State of Texas. *See* Plaintiffs' Original Petition,

2.3. Defendant Schneider National Carriers, Inc. is an Nevada company that operates its headquarters and principal place of business in Green Bay, Wisconsin. Under 28 U.S.C. §1332, a corporation is a citizen in the state by which it is incorporated and the state where its principal place of business is located.

2.4. Defendant Shayne Thomas Felty was, and is, at the time the lawsuit was filed, a resident of the State of Louisiana.

**A. The Amount in Controversy Exceeds the Jurisdictional Requirements for Subject Matter Jurisdiction**

2.4. Plaintiffs' claims are based on the wrongful death and survivor statutes. "Plaintiffs seek damages in excess of One Million Dollars." See Plaintiffs' Original Petition.

**III.**  
**THE REMOVAL IS PROCEDURALLY CORRECT**

3.1. Defendants made an appearance in the state court action on Friday, June 19, 2015 (see Exhibit "B"). Defendants file this Notice of Removal within the 30 day time period required by 28 U.S.C. § 1446(b).

3.2. Venue is proper in this district and division under 28 U.S.C. § 1446(a) because this district and division include the county in which the state action has been pending and because a substantial part of the events giving rise to Plaintiffs' claims allegedly occurred in this district and division.

3.3. Pursuant to 28 U.S.C. § 1446(d), promptly after Defendants file this notice, written notice of the filing will be given to Plaintiffs, the adverse party.

3.4 Pursuant to 28 U.S.C. § 1446(d), a true and correct copy of this Notice and Petition for Removal will be filed with the Clerk of the Jefferson County District Court, promptly after Defendants file this notice.

**IV.**

**IMPROPERLY JOINED IN-STATE DEFENDANTS, JAMES HOLMES, THE  
LAW OFFICE OF JAMES HOLMES, P.C., JOHN BURT, AND THE LAW  
OFFICE OF JOHN BURT, PLLC**

Plaintiffs' claims against the in-state Defendants are wholly separate and distinct from Plaintiffs' claims against Defendants. The in-state Defendants were improperly joined solely for the purpose of defeating diversity jurisdiction. The claims against the in-state Defendants are related to contracts. Plaintiffs' claims against the in-state Defendants are pursuant to the Texas Uniform Declaratory Judgments Act.

Plaintiffs' claims against the improperly joined in-state Defendants should be severed from Plaintiffs' claims against Defendants.

With respect to the individual in-state Defendants, Holmes and Burt, it is clear the standard for determining improper joinder in this case is met. This removal is proper.

**V.**

**CONCLUSION**

Based upon the foregoing, the exhibits submitted in support of this Removal and other documents filed contemporaneously with this Notice of Removal and fully incorporated herein by reference, Defendants hereby remove this case to this court for trial and determination.

Respectfully submitted,

Hanszen Laporte LLP

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Attorneys for Defendants

Schneider National Carriers, Inc. and

Shayne Thomas Felty

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the above and foregoing has been forwarded to all interested parties on this 23rd day of June, 2015 in accordance with the Federal Rules of Civil Procedure and as indicated below:

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/s/ H. Mark Burck  
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